**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 21739 of 2004**

Between:

S.Siva Shankar S/oS.Munaswamy
M.Boyapally Village, Medavaram Post,
Tavanampally (M), Chittoor Dist.

..... PETITIONER

AND

1 A.P.State Road Transport Corporation rep by its Managing Director
Musheerabad, Hyderabad-20.
2 The Depot Manager A.P.S.R.T.C.,
Puttur Depot, Puttur,
Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd respondent and issue an appropriate writ, order or Direction, particularly one in the nature of writ of Mandamus, declaring that the order passed by 2nd respondent in proceedings No.E1/1(5)/2004-PTR, dt 22-4-2004, deleting the name of petitioner from the Approved List/Select list of Drivers as illegal, unjust, contrary to law, in violation of principles of natural justice, amounts to unfair labour practice, without jurisdiction and violative of articles 14,16 and 21 of the Constitution of India, and grant all consequential benefits.

**Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO**

**Counsel for the Respondents : MR.P.VINAYAKA SWAMY**

The Court made the following :

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**ORDER:**

The counsel for the petitioner contended that the petitioner's name was removed from the list of selected candidates for the post of Driver,without conducting enquiry on the ground of alleged unauthorized absent and police registered a case against him under Section 304-A IPC for rash and negligent driving and a criminal case is filed against the petitioner in C.C.No.462 of 2002 and therefore, issued a show cause notice dated 17-02-2004.

The counsel for the petitioner further contended that the petitioner suffered with slight paralysis and to that effect he produced sick certificate issued by a Private Doctor, therefore, he could not attend the duties from 5-1-2004 to 15-2-2004 and the petitioner has submitted his explanation to the show cause notice and he was acquitted in C.C.No.462 of 2002 filed against him on the ground of rash and negligence driving. Therefore, prays to quash the impugned proceedings of the second respondent.

The counsel for the respondent opposed the same on the ground that he has absented for his duties unauthorizedly from 5-1-2004 to 15-2-2004 and produced a Private Sick Certificate to cover his absenteeism and the petitioner's work is unsatisfactory in terms of regular appointment order.

Basing on the unauthorized absenteeism from 5-1-2004 to 15-2-2004, a show

cause notice was issued as to why your name shall not be deleted from the approved list/select list on the ground of your unsuitability for regular appointment. The petitioner has submitted his explanation to that effect. Normally this Court will not interfere with the proceedings of the show cause notice unless it is contrary to the provisions of the employees regularizations,1967. Solely basing on the unauthorized absenteeism and a case was filed against the petitioner for rash and negligent driving, in the Criminal Court, a show cause notice for removal from service is given and despite submission of explanation, his name is removed from the selected list for the post of driver which is a major penalty. Without conducting any departmental enquiry, a major penalty cannot be imposed. This is a settled law. Therefore, the impugned proceedings issued by the second respondent are vitiated for the reason of non conducting of an enquiry. Therefore, impugned proceedings are set-aside. However, the respondent corporation shall conduct enquiry if they want to proceed further against the petitioner and take appropriate action.

This Writ Petition is accordingly allowed. No costs.

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KCB,J

26-11-2004

Stp

To

1 The Managing Director,

A.P.State Road Transport Corporation,
Musheerabad, Hyderabad-20.

2 The Depot Manager, A.P.S.R.T.C.,
Puttur Depot, Puttur,
Chittoor Dist.

3 2CD copies.

**THE HON'BLE MR JUSTICE K.C. BHANU**

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